UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

NM HOLDINGS COMPANY, LLC, et al.,	Case No. 03-48939 Jointly Administered
Debtors.	Chapter 7 Judge Thomas J. Tucker

_____/

OPINION REGARDING THE MOTION BY J.P. MORGAN CHASE BANK, N.A., ETC. FOR RELIEF FROM THE AUTOMATIC STAY (DOCKET #3982)

This case came before the Court for hearing on September 13, 2006 on a motion for relief from the automatic stay filed by J.P. Morgan Chase Bank, N.A., etc., in its capacity as agent for pre-petition senior lenders (Docket #3982). The Chapter 7 Trustee, Stuart Gold, objected to the motion. At the conclusion of the September 13 hearing, the Court took the motion under advisement. This opinion explains briefly why the Court is granting the motion.

Based upon the facts presented in the stay-relief motion and during the September 13 hearing which are undisputed, the Court concludes that the bankruptcy estates in these jointly-administered cases do not have any equity in any of the property that is the subject of the stay-relief motion. And such property is part of the collateral securing the debt owing to the pre-petition senior lenders. Further, such property is not necessary to an effective reorganization, since this is a Chapter 7 liquidation case. Accordingly, grounds for the requested stay relief exist under 11 U.S.C. § 362(d)(2).

The Court further concludes that it is not necessary to deny this stay-relief motion in order to protect the Trustee's claimed, potential right(s) of setoff. (The Trustee has referred to this as his "contingent" right of setoff). First, it is undisputed that the Trustee's claimed right of setoff

is, at best, contingent, and may never become non-contingent. Second, there are other means by which the Trustee may, in the future, seek to preserve and protect his claimed setoff rights, if and when the Trustee ever makes interim distributions to general unsecured creditors, or if and when the Trustee would otherwise be required to make any repayment of the so-called Wind-Down Advance or the Litigation Loan. At this point, there is no sufficient reason for further denying J.P. Morgan (and the secured creditors it represents) the use of their collateral at issue, which now is in the form of money. Thus, even assuming that a balancing of hardships is appropriate or even permissible in ruling on a stay-relief motion in a situation like this, where grounds for stay relief exist under § 362(d)(2), the balance here weighs in favor of granting the relief requested by J.P. Morgan.

For these reasons, the Court will grant J.P. Morgan's motion. J.P. Morgan should submit, electronically through the Court's order-submission program, the proposed order that was filed with its motion. The Court approves the form of that Order and will enter it.

Date: September 15, 2006

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge